

AN ORDINANCE

05-0-0626

BY FINANCE/EXECUTIVE COMMITTEE

AN ORDINANCE AUTHORIZING THE CITY OF ATLANTA TO WAIVE SECTIONS 2-1189, 2-1193, 2-1205 AND 2-1206 OF ARTICLE X, PROCUREMENT AND REAL ESTATE CODE, OF THE CITY OF ATLANTA CODE OF ORDINANCES, ALLOWING THE CITY TO CONTRACTUALLY OPERATE FOR A PERIOD OF FOUR MONTHS, COMMENCING ON MARCH 1, 2005, AND CONTINUING THROUGH AND INCLUDING JUNE 30, 2005, UNDER THE TERMS OF ITS PRIOR EXPIRED CONTRACT WITH BOMBARDIER, INC., DATED EFFECTIVE APRIL 1, 1998, FOR THE CONTINUED OPERATION AND MAINTENANCE OF THE AUTOMATED GUIDEWAY TRANSIT SYSTEM AT HARTSFIELD-JACKSON ATLANTA INTERNATIONAL AIRPORT, FOR AN AMOUNT NOT TO EXCEED \$3,361,802.00 TO BE PAID FROM ACCOUNT NO. 2H01 523001 R49001 (AIRPORT REVENUE FUND, SERV/REPAIR/MAINT CONT., AUTOMATED GATEWAY TRANSIT SYSTEM); AND FOR OTHER PURPOSES.

WHEREAS, the Automated Guideway Transit System ("AGTS") at Hartsfield-Jackson Atlanta International Airport is a sole source/proprietary system originally designed, fabricated, installed, operated and maintained within the Central Passenger Terminal Complex ("CPTC") under a Contract between the City of Atlanta ("City") and Westinghouse Electric Corporation ("Westinghouse"), dated April 26, 1977; and

WHEREAS, based upon determinations by the City's Department of Procurement f/k/a Bureau of Purchasing and Real Estate, and month to month extension legislation adopted by the City, it has, since the initial contracting date of April 26, 1977, renewed, extended and executed additional contracts with Westinghouse or its successors in interest (collectively, the "Contractor"), for the continued operation and maintenance of the AGTS, including, but not limited to, executing Contracts dated September 1, 1985, December 20, 1988, March 5, 1996 and May 18, 1988; and

WHEREAS, the most current Contract between the City and Contractor expired on March 31, 2000; and

WHEREAS, notwithstanding, and because of the sole source/proprietary nature of the Contract, the City, by Ordinance Nos. 03-O-1447, 04-R-1017 and 04-O-2138, adopted by the City Council and approved by the Mayor, extended the Contract on a month to month basis through February 28, 2005, to allow the City sufficient time to enter into and conclude negotiations with the Contractor concerning a new contract for the operation and maintenance of the AGTS; and

WHEREAS, the extended Contract expiration date of February 28, 2005, has passed and the City's Departments of Aviation and Procurement have

determined that additional time is necessary to complete discussions and negotiations with the Contractor concerning a new contract; and

WHEREAS, because of previous determinations by the City that the AGTS is a sole source/proprietary system and is critical to the efficient, effective and continuous transportation of passengers within the CPTC, and the determination by the City's Departments of Aviation and Procurement that additional time is needed to negotiate with the Contractor, the City now desires to further extend the Contract for an additional four-month period, commencing March 1, 2005, and ending June 30, 2005, so as to permit the City and Contractor n/k/a Bombardier, Inc. ("Bombardier") to continue negotiations for a replacement contract; and

WHEREAS, the Aviation General Manager has assembled an eight-member negotiations team who have been working diligently on completing the negotiation process. Based on a draft requirements document and technical specifications developed by the negotiating team, a request has been made of Bombardier to provide fee proposals; and

WHEREAS, the negotiating team anticipates that Bombardier's review and analysis of the requirements document and technical specifications will lead to a fee proposal. Therefore, the Aviation General Manager anticipates that continuing negotiations thereafter will involve both the fee proposal and the finalization of and agreement upon the requirements document and technical specifications; and

WHEREAS, Bombardier, Inc. is willing to perform the maintenance and operation of the AGTS during the four-month extension period under the same terms and conditions set forth in its most current, expired Contract; and

WHEREAS, the Aviation General Manager and the Chief Procurement Officer have recommended that the City extend the Contract with Bombardier for the continued operation and maintenance of the AGTS at Hartsfield-Jackson Atlanta International Airport for a period of four months, commencing March 1, 2005, and continuing through and including June 30, 2005, to allow the City and Bombardier to negotiate a replacement contract.

THE CITY COUNCIL OF THE CITY OF ATLANTA, GEORGIA hereby ordains as follows:

SECTION 1: The Contract between the City and Bombardier is extended for a four-month term, commencing March 1, 2005, and continuing through and including June 30, 2005, to allow the continued operation and maintenance of the AGTS at Hartsfield-Jackson Atlanta International Airport for an amount not to exceed \$3,361,802.00, to be paid from Account No. 2H01 523001 R49001 (Airport Revenue Fund, Serv/Repair/Maint. Cont., Automated Gateway Transit System), until a new contract for the operation and maintenance of the AGTS becomes effective.

SECTION 2: The Chief Financial Officer is authorized to remit payment to Bombardier for services rendered under the extended Contract in accordance with its payment terms.

SECTION 3: The Mayor is authorized, on behalf of the City, to take any other and further action and to execute, acknowledge, accept and/or deliver any other and further instruments, documents and assurances as deemed desirable and appropriate to consummate the transactions authorized by this Ordinance and to effectuate this Ordinance.

SECTION 4: All ordinances in conflict with this Ordinance, including, but not limited to, Code Sections 2-1189, 2-1193, 2-1205 and 2-1206, are waived.

Legislative White Paper

Committee of Purview: TRANSPORTATION

Caption

AN ORDINANCE AUTHORIZING THE CITY OF ATLANTA TO WAIVE SECTIONS 2-1189, 2-1193, 2-1205 AND 2-1206 OF ARTICLE X, PROCUREMENT AND REAL ESTATE CODE, OF THE CITY OF ATLANTA CODE OF ORDINANCES, ALLOWING THE CITY TO CONTRACTUALLY OPERATE FOR A PERIOD OF FOUR MONTHS, COMMENCING ON MARCH 1, 2005, AND CONTINUING THROUGH AND INCLUDING JUNE 30, 2005, UNDER THE TERMS OF ITS PRIOR EXPIRED CONTRACT WITH BOMBARDIER, INC., DATED EFFECTIVE APRIL 1, 1998, FOR THE CONTINUED OPERATION AND MAINTENANCE OF THE AUTOMATED GUIDEWAY TRANSIT SYSTEM AT HARTSFIELD-JACKSON ATLANTA INTERNATIONAL AIRPORT, FOR AN AMOUNT NOT TO EXCEED \$3,361,802.00 TO BE PAID FROM ACCOUNT NO. 2H01 523001 R49001 (AIRPORT REVENUE FUND, SERV/REPAIR/MAINT CONT., AUTOMATED GATEWAY TRANSIT SYSTEM); AND FOR OTHER PURPOSES.

Council Meeting Date: May 2, 2005

Legislation Title: Contract with Bombardier, Inc.

Requesting Dept.: AVIATION

Contract Type: OPERATIONS AND MAINTENANCE CONTRACT

Source Selection: N.A.

Bids/Proposals Due: N.A.

Invitations Issued: N.A.

Number of Bids/
Proposals Received: N.A.

Bidders/Proponents: N.A.

Justification Statement:

The Department of Aviation is actively involved in negotiations with Bombardier, Inc. The ultimate conclusion of those negotiations is anticipated to be a replacement contract covering the operation and maintenance of the Automated Guideway Transit System (AGTS) at the Hartsfield-Jackson Atlanta International Airport as it exists today and may exist in the future. The extension of the Contract term is requested by the Department of Aviation to provide an adequate period during which to complete those negotiations. Due to the proprietary nature of the equipment to be maintained and operated, performance of the contracted for operation and maintenance by an alternate provider during this period is impractical and unadvisable.

Background:

The City of Atlanta and Bombardier, Inc. are parties to an Amended and Restated Operations and Maintenance Contract covering the operation and maintenance of the AGTS at the Hartsfield-Jackson Atlanta International Airport, dated May 18, 1998. The contract term commenced April 1, 1998 and expired by its terms on March 31, 2000. Since its expiration, the contract has been continuing on a month-to-month basis.

Fund Account Center: 2H01 523001 R49001

Source of Funds: Airport Operating

Fiscal Impact: \$3,361,802.00

Term of Contract:

Commences March 1, 2005 and continues thereafter for a period of four months expiring on June 30, 2005

Method of Cost Recovery:

60% to CPTC Air Carriers / 40% City

Approvals:

DOF: Yes

DOL: Yes

Prepared By: Charles L. Fister

Contact Number: (404) 530-7873

TRANSMITTAL FORM FOR LEGISLATION

To Mayor's Office: Greg Pridgeon

General Manager's Signature: _____

From: Originating Dept. Aviation

Committee of Purview: Fin/Exec.

Committee Meetings: 04/27/05

Contact: Anita Williams 404-530-6600

Committee Deadline: 04/15/05

Council Meeting: 05/02/05

CAPTION:

AN ORDINANCE AUTHORIZING THE CITY OF ATLANTA TO WAIVE SECTIONS 2-1189, 2-1193, 2-1205 AND 2-1206 OF ARTICLE X, PROCUREMENT AND REAL ESTATE CODE, OF THE CITY OF ATLANTA CODE OF ORDINANCES, ALLOWING THE CITY TO CONTRACTUALLY OPERATE FOR A PERIOD OF FOUR MONTHS, COMMENCING ON MARCH 1, 2005, AND CONTINUING THROUGH AND INCLUDING JUNE 30, 2005, UNDER THE TERMS OF ITS PRIOR EXPIRED CONTRACT WITH BOMBARDIER, INC., DATED EFFECTIVE APRIL 1, 1998, FOR THE CONTINUED OPERATION AND MAINTENANCE OF THE AUTOMATED GUIDEWAY TRANSIT SYSTEM AT HARTSFIELD-JACKSON ATLANTA INTERNATIONAL AIRPORT, FOR AN AMOUNT NOT TO EXCEED \$3,361,802.00 TO BE PAID FROM ACCOUNT NO. 2H01 523001 R49001 (AIRPORT REVENUE FUND, SERV/REPAIR/MAINT CONT., AUTOMATED GATEWAY TRANSIT SYSTEM); AND FOR OTHER PURPOSES.

BACKGROUND/DISCUSSION: The Contract covering operations and maintenance of the Automated Guideway Transit System (AGTS) at the Hartsfield-Jackson Atlanta International Airport expired of its terms effective March 31, 2000. Since its expiration, the Contract has been continuing on a month-to-month basis. This Resolution authorizes for a term not-to-exceed four months and ending on June 30, 2005.

FINANCIAL IMPACT: \$3,361,802 **SOURCE:** Airport Revenue Fund
Fund Account Center numbers and availability of funds verified by Financial Analyst.

Mayor's Staff Only:

Received by Mayor's Office: _____

(Date)

Reviewed: _____

(Initials)

(Date)

Submitted to Council: _____

Action by Committee: _____ Approved _____ Adversed _____ Held _____ Amended

_____ Substitute _____ Referred _____ Other